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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,628	08/28/2003	Jim Kiefer	RAN01 P-309A	7509
28101	7590	09/12/2005	EXAMINER	
VAN DYKE, GARDNER, LINN AND BURKHART, LLP			KYLE, MICHAEL J	
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P.O. BOX 888695			ART UNIT	
GRAND RAPIDS, MI 49588-8695			PAPER NUMBER	
			3677	

DATE MAILED: 09/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/650,628	Applicant(s) KIEFER ET AL.	
	Examiner Michael J. Kyle	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-21,23-29 and 32-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-21,29 and 32-38 is/are allowed.
- 6) ☒ Claim(s) 1,3-6,8-12,23 and 25-28 is/are rejected.
- 7) ☒ Claim(s) 7 and 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/20/05</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-6, 8-12, 23, and 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood, Jr. et al ("Wood", U.S. Patent No. 5,611,114) in view of Purcell et al ("Purcell", U.S. Patent No. 5,779,299). With respect to claims 1, 8, and 9, Wood discloses an automobile hinge comprising a panel attachment plate (12), a body attachment plate (14) and an intermediate member (16) pivotably attached to the body attachment plate (via 24) and panel attachment plate (via 20). The intermediate member includes opposing sidewalls and a center flange (see figure 1). The sidewalls engage the body attachment plate, with the center flange being spaced from the body attachment plate, in a first position (see figure 1). The intermediate member is pivotably attached to the body attachment plate at a junction of the first and second portions, and has first and second portions (16a, 16b) arranged at an angle relative to each other. Additionally, Wood discloses the intermediate member (16) to comprise at least one panel stop member configured to engage a stop portion of the panel attachment plate to limit pivotal movement (column 4, lines 25-27, or 60d in figure 5). Examiner notes that the portion contacted by the panel stop member is considered to be the "stop portion". The panel stop member and stop portion are adapted to limit pivotal movement of the panel attachment plate at different

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positions (column 4, lines 23-25, “selection of the size of the stop member”). It is further noted that the claimed limitation of “stamped” is a process limitation in a product claim and is given little patentable weight. As long as the prior art is capable of being made from claimed process, then it is considered to read on the limitation. Wood fails to disclose the intermediate member to be U-shaped in cross section.

3. Purcell teaches an apparatus for use on an automobile (121, figure 11), where the apparatus includes a U-shaped cross section (formed by 133 and 137). Purcell discloses that this portion can be made from either a cast or stamped metal piece (column 5, line 26-28), thereby establishing equivalence between the processes. Wood states that the intermediate piece may be made by casting (column 2, line 25). It would have been obvious to one having ordinary skill in the art at the time of the invention to form the intermediate part of Wood with a stamped, U-shape cross section, as shown by Purcell, as stamping and casting are equivalent within the art. Additionally, one having ordinary skill would recognize the reduction in material that arises from this hollowed shape will provide a cost benefit.

4. Regarding claim 9, it is noted that the limitation of “being cut” is a product-by-process limitation in a product claim, and is given little patentable weight. As long as the prior art meets the structural limitations of the claim, and is *capable* of being made by the same process, then the prior art is considered to read on the claim. In the case, the stop (16c, or similar stop engaging the panel attachment plate) is capable of being cut during manufacturing of the hinge. Further, Wood discloses the intermediate member (“support member”) can be prepared by “machining” (column 2, lines 23-27). Examiner asserts that “machining” includes cutting.

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5. With respect to claim 3, Wood discloses the intermediate member to comprise first and second portions (16a and 16b) at a relative angle to one another. The intermediate member (16) is pivotably attached to the body attachment plate (14) at a junction of the first and second portions (16a, 16b). The panel attachment plate (12) is pivotably attached to the intermediate member at an end of the second portion (16a).

6. With respect to claims 4 and 5, Wood discloses the intermediate member to include a panel stop member at an end that is configured to engage a portion of the panel attachment member (column 4, lines 19-27, specifically, lines 25-27, also see embodiment shown in figure 5, reference 60d). The intermediate member (16) also includes a body stop plate member (16c) that engages the body attachment plate to limit pivotal movement.

7. With respect to claim 6, Wood discloses the body plate stop member (16c) to comprise at least one flange (16c) protruding from the first portion (16a) of the intermediate member (16) and engaging a corresponding flange on the body attachment plate. The flange (16 c) protrudes outwardly from the first portion (16 a) of the intermediate portion, in a direction generally transverse to a longitudinal axis of the first portion. The body attachment plate comprises at least one generally raised flange (22a, 22b) extending along an edge portion of the body attachment plate and transverse to the edge portion to define a hinge portion (which receives pin 24).

8. With respect to claim 10, Wood discloses a panel stop member (column 4, lines 23-27, or 60d). However, neither Wood nor Purcell discloses there to be a pair of panel stop members. However, replacing a single piece with multiple parts is considered to be within the level of one having ordinary skill in the art, as no new or unexpected result is produced from such a

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modification. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Wood, so that there is a pair of panel stop members, as no new or unexpected result is produced from this modification.

9. With respect to claim 11, Wood discloses the stop members are adaptable to limit pivotable movement of the panel attachment plate at different positions (column 4, lines 23-27). Examiner notes that “being cut” is a product-by-process limitation, and has already been addressed in this Office Action.

10. With respect to claim 12, Wood discloses the center flange of the intermediate portion (16) to include a fastener portion (see figure 1, on 16b), and is securable to the body attachment plate with a fastener.

11. With respect to claim 23, Wood discloses a method of making an automobile hinge comprising the steps of providing a panel attachment plate (12), providing a body attachment plate (14) and providing an intermediate member (16) with first and second leg portions (16a, 16b) extending at an angle to one another. The intermediate member has first and second sidewalls and a center flange, and is pivotably attached to the panel attachment plate (12) and the body attachment plate (14) at an apex of the first and second leg portions. The panel attachment plate is attached to the intermediate member at an end portion of the second leg portion (16a, at 20). Additionally, Wood discloses forming a stop portion of the intermediate member (column 4, lines 25-27). The stop limits the range of pivotal movement of the panel attachment plate with respect to the intermediate member. A degree of trimming adapts the stop to define the stopping position of the panel attachment plate with respect to the intermediate member. The intermediate

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member is formed having a selected one of at least two forms. Wood does not disclose the intermediate member to be made by stamping a metallic sheet, or having a U-shaped cross section.

12. Purcell teaches an apparatus for use on an automobile (121, figure 11), where the apparatus includes a U-shaped cross section (formed by 133 and 137). Purcell discloses that this portion can be made from either a cast or stamped metal piece (column 5, line 26-28), thereby establishing equivalence between the processes. Wood states that the intermediate piece may be made by casting (column 2, line 25). It would have been obvious to one having ordinary skill in the art at the time of the invention to form the intermediate part of Wood with a stamped, U-shape cross section, as shown by Purcell, as stamping and casting are equivalent within the art. Additionally, one having ordinary skill would recognize the reduction in material that arises from this hollowed shape will provide a cost benefit.

13. It is noted that Wood discloses the intermediate member ("support member") is formed of a metal body and may be prepared by "machining" (column 2, lines 23-27). Wood also states, "By selection of the size of stop member 16c...the degree of restriction may be controlled" (column 4, lines 23-25, Wood also says the feature 16c may be incorporated into the hinge with regard to the first plate, or panel attachment plate, 12), which shows the size of the stop may be adjusted depending on the application. Examiner also cites the embodiment shown in figure 5, specifically feature 60d, to show this "stop". Examiner notes that "machining" includes processes such as milling, cutting, and shaping.

14. With respect to claim 25, the combination of Wood and Purcell teaches forming the stop comprises adjusting a stamping tool to form a desired stop on the intermediate member. As

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noted in the preceding paragraph, Wood discloses a degree of adjustability in the manufacturing of the stop. Purcell teaches equivalence between the casting process disclosed by Wood, and stamping process.

15. With respect to claim 26, Wood discloses the hinge is attached to a vehicle body and a vehicle gate.

16. With respect to claims 27 and 28, Wood discloses trimming the stop portion to include punching a greater portion from the intermediate member to create a greater range of motion, and punching a lesser portion from the intermediate member to create a lesser range of motion (column 4, lines 23-25). It is noted that Wood discloses the intermediate member (“support member”) is formed of a metal body and may be prepared by “machining” (column 2, lines 23-27). Examiner notes that “machining” includes processes such as milling, cutting, shaping, and punching.

Allowable Subject Matter

17. Claims 7 and 24 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

18. Claims 13-21, 29, and 32-38 allowed.

Response to Arguments

19. Applicant's arguments with respect to claims 1, 3-6, 8-12, 23, and 25-28 have been considered but are moot in view of the new ground(s) of rejection. Examiner has cited Purcell in

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the rejections of these claims made under 35 U.S.C. 103(a). Purcell teaches the U-shaped element that may be either stamped or cast.

20. Applicant argues stamping process is not equivalent to any of the casting, machining, or extruding processes disclosed by Wood. Examiner respectfully disagrees. Wood discloses the member may be prepared by techniques such as powder metallurgy, casting, machining, extrusion *and the like*. Purcell teaches a U-shaped element that may either be cast or stamped. This clearly establishes equivalence between the two processes. Wood does not limit the manufacturing processes to only powder metallurgy, casting, machining or extrusion, as Wood states the “like” processes may also be used (column 2, line 26).

21. Examiner notes the rejections based on the combination with the Bobbowski patent, for showing of a punching process, are not rejected by the combination of Wood and Purcell. A broader definition of “machining” has been applied, to encompass “punching”. Because this new ground of rejection was not necessitated by amendment, this Office Action is non-final.

Conclusion

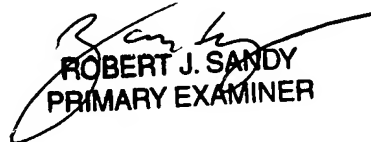
22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Kyle whose telephone number is 571-272-7057. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

23. If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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24. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mk


ROBERT J. SANDY
PRIMARY EXAMINER